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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,818	02/04/2002	James R. Hornsby	14002.01	4800

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

EXAMINER

FRANCIS, FAYE

ART UNIT PAPER NUMBER

3712

DATE MAILED: 05/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,818

Applicant(s)

HORNSBY ET AL.

Examiner

Faye Francis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 9-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

A] On page 7 lines 8 and 11, reference character "51" has been used to designate both "first tank" and "holding tank".

B] On page 7 lines 17 and 20, reference character "60" has been used to designate both "first trigger" and "second trigger".

Correction is required

Claim Objections

2. Claims 4-5 are objected to because of the following informalities:

A] In claim 4 line 1, "plate" should be replaced with -- plates --.

B] In claim 5 line 1, "comprise" should be replaced with -- comprising --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Whalen.

Whalen discloses in Fig 2, an apparatus comprising: a fluid discharge mechanism [col 3 lines 21-24], a plurality of light [sources 6 and 8], a sequential

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[positions 16a and 16b] trigger 16 as recited in claim 1, a gun shaped housing as recited in claim 2, a gun-disabling mechanism [off switch] as recited in claim 6, a tank [container 12] and air pump [as disclosed in patent number 4,186,851 which is incorporated by reference]. Also as required by claim 8 the fluid discharge mechanism of the Whalen is considered to be inherently has a valve mechanism in as much as the device as disclosed is a weapon having a source of pressurized chemical repellent.

Since the device disclosed in the reference includes all of the structural elements of the claims it is presumed to be inherently capable of all the claimed functions such as those set forth in the preamble of the claim.

5. Claims 1-2 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Ruthenberg.

Ruthenberg discloses in Figs 1-7c, a water amusement apparatus comprising: a fluid discharge mechanism [outlet opening 52], a plurality of light [LED bulbs 30] and a sequential trigger [col 5 lines 8-12].

Allowable Subject Matter

6. Claims 12-17 are allowed.

7. Claims 3-5 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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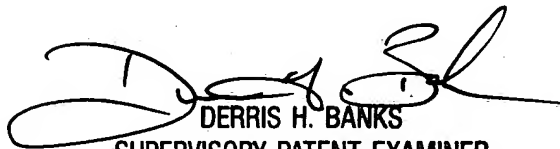
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

FF
April 25, 2003


DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700